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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,974	10/12/2001	Donald Remboski	29248/AP01950	2948
22917	7590	09/18/2006	EXAMINER	
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			SWERDLOW, DANIEL	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/976,974

Applicant(s)

REMBOSKI ET AL.

Examiner

Daniel Swerdlow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 through 9, 13 through 16, 20 through 33 and 37 through 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Newell et al. (US Patent 6,466,232).

3. Regarding Claim 1, Newell discloses a device (Fig. 1) that communicates wirelessly (column 6, lines 18-20; column 12, lines 1-16, 45-50) and has a Condition-Dependent Output Supplier (CDOS) that determines an appropriate output device and format for information to be presented to the user (i.e., configures the service state) (column 3, lines 46-55) using a method comprising: receiving, in an Output Device Selector Module, a set of device operating parameters defining available output devices (i.e., preferred service states) and user condition variables (i.e., context parameters) (Fig. 5; column 16, lines 37-50); receiving a current model of user condition (i.e., a plurality of context data) (Fig. 3; column 14, lines 51-61) to calculate a user cognitive load (Fig. 4, steps 5-9; column 15, lines 11-14) based on the current model of user condition (i.e., context data); and selecting an output device (i.e., service state) (Fig. 8) based on the cognitive load (step 830), the user condition variables (i.e., context parameters) and the current model of user condition (i.e., context data) (step 825).

4. Regarding Claim 2, Newell further discloses a user condition variable (i.e., context parameter) and current value (i.e., context data) relating to speed (Fig. 3, line 11).
5. Regarding Claim 3, Newell further discloses a user condition variable (i.e., context parameter) and current value (i.e., context data) relating to location (Fig. 3, lines 2, 3).
6. Regarding Claim 4, Newell further discloses a user condition variable (i.e., context parameter) and current value (i.e., context data) relating to time (Fig. 3, line 1).
7. Regarding Claim 5, Newell further discloses a user condition variable (i.e., context parameter) and current value (i.e., context data) relating to user activity (Fig. 3, line 15).
8. Regarding Claim 6, Newell further discloses a user condition variable (i.e., context parameter) and current value (i.e., context data) relating to user cognitive load (Fig. 3, line 16).
9. Regarding Claim 7, Newell further discloses an output device selection (i.e. service state) of sending information to a cellular telephone (i.e., call forwarding) (Fig. 5, reference 504; column 17, lines 2-5).
10. Regarding Claim 8, Newell further discloses an output device selection (i.e. service state) of sending information to a speaker (i.e., hands-free voice interface) (Fig. 5, reference 162; column 15, lines 32-46).
11. Regarding Claim 9, Newell further discloses a user condition current value (i.e., context data) relating to speed (Fig. 3, line 11), location (Fig. 3, lines 2, 3), altitude (Fig. 3, line 4), ambient noise (Fig. 3, line 9) and ambient temperature (Fig. 3, line 8), all of which relate to the operation of a vehicle.
12. Regarding Claim 13, Newell further discloses the CDOS system maintaining a current model of the user condition using information (i.e., operating parameters) received from body-

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worn input and sensor devices (i.e., a personal portable user interface) (Fig. 1, reference 122, 126; column 11, lines 51-67).

13. Regarding Claim 14, Newell further discloses a user condition variable (i.e., context parameter) and current value (i.e., context data) of time of day (Fig. 3, line 1), which is related to ambient lighting.

14. Regarding Claim 15, Newell further discloses a user condition variable (i.e., context parameter) and current value (i.e., context data) relating to altitude (Fig. 3, line 4).

15. Regarding Claim 16, Newell further discloses a user condition variable (i.e., context parameter) and current value (i.e., context data) relating to ambient noise (Fig. 3, line 9).

16. Regarding Claim 20, Newell further discloses the device comprises a cellular telephone (Fig. 5, reference 504; column 17, lines 2-5).

17. Regarding Claim 21, Newell further discloses the device comprises a cellular telephone (Fig. 5, reference 502; column 16, lines 41-43).

18. Regarding Claim 22, Newell further discloses the device comprises a hand-held flat panel display with character recognition capabilities (i.e., a PDA) (Fig. 1, reference 130; column 11, lines 55-56).

19. Claims 23 through 30 are essentially similar to Claims 1 through 8, respectively, and are rejected on the same grounds.

20. Claims 31 through 33 are essentially similar to Claims 14 through 16, respectively, and are rejected on the same grounds.

21. Claims 37 through 39 are essentially similar to Claims 20 through 22, respectively, and are rejected on the same grounds.

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22. Regarding Claim 40, Newell further discloses the device comprises a computer (Fig. 1, reference 120; column 11, lines 51-52).

23. Regarding Claim 41, Newell further discloses the device receiving information from a web page (column 5, lines 55-60). As such, the device inherently comprises a web browser.

24. Claims 1, 9 through 12 and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Herbert et al. (US Patent 6,188,315).

25. Regarding Claim 1, Herbert discloses a method for interrupting the operation (i.e., configuring the service state) of an in-car telephone (i.e., wireless communication device) (column 4, lines 14-20) that comprises: programming with algorithms (i.e., receiving device operating parameters) to define a relevant condition (i.e., preferred service state) from location, speed and traffic information (i.e., context parameters representing a device operating situation) (column 3, line 49-column 4, line 24); receiving location, speed and traffic information (i.e., context data from a plurality of context data sources) and following through algorithms to identify a relevant condition (column 3, lines 59-61) that requires driver concentration (column 1, lines 31-35) (i.e., calculating a cognitive load based on context data); and switching off the phone (i.e., setting the service state of the device) in accordance with the relevant condition, algorithms and the location, speed and traffic information (i.e., cognitive load, context parameter and context data).

26. Regarding Claim 9, Herbert further discloses the use of speed, braking status and data related to the driving condition (i.e., data relating to vehicle operation) (column 3, lines 49-55).

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27. Regarding Claim 10, Herbert further discloses the use of speed and braking status (i.e., data relating to vehicle condition) and road configuration (i.e., vehicle environment) (column 3, lines 49-65).

28. Regarding Claim 11, Herbert further discloses a control unit (Fig. 1, reference 11) that combines (i.e., fuses) data from vehicle systems (5, 7, 9, 23, 25) and sends a suppression signal that corresponds to the fused data claimed to the transceiver (17) that corresponds to the wireless communication device claimed (column 4, lines 14-17).

29. Regarding Claim 12, Herbert further discloses a control unit (Fig. 1, reference 11) that combines (i.e., fuses) data from vehicle systems (5, 7, 9, 23, 25) into a suppression signal and sends the suppression signal to the transceiver (17) that corresponds to the wireless communication device claimed (column 4, lines 14-17). As such, the transceiver (17) that corresponds to the wireless communication device claimed is communicatively coupled to the vehicle.

30. Claim 23 is essentially similar to Claim 1 and is rejected on the same grounds.

Claim Rejections - 35 USC § 103

31. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

32. Claims 17 through 19 and 34 through 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herbert in view of Matsuda et al. (US Patent 6,108,532).

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33. Regarding Claim 17, as shown above apropos of Claim 1, Herbert anticipates all elements except that Herbert is silent as to the treatment of new incoming calls. Matsuda discloses a radio communication apparatus (Fig. 1) that determines conditions are safe for a driver to receive an incoming call and performs a normal terminating operation (i.e., a ringing mode service state) (Fig. 3, step 3c; column 8, lines 30-41). Matsuda further discloses that such an arrangement provides improved safety when driving and good manners when riding a train (column 2, lines 3-6). It would have been obvious to one skilled in the art at the time of the invention to apply the incoming call treatment taught by Matsuda to the method taught by Herbert for the purpose of realizing the aforesaid advantages.

34. Regarding Claim 18, as shown above apropos of Claim 1, Herbert anticipates all elements except that Herbert is silent as to the treatment of new incoming calls. Matsuda discloses a radio communication apparatus (Fig. 1) that determines conditions are unsafe for a driver to receive an incoming call and records the caller's number (Fig. 3, steps 3e-3k; column 8, lines 30-41) and allows the user to subsequently easily return the call (i.e., a completion delay service state). Matsuda further discloses that such an arrangement provides improved safety when driving and good manners when riding a train (column 2, lines 3-6). It would have been obvious to one skilled in the art at the time of the invention to apply the incoming call treatment taught by Matsuda to the method taught by Herbert for the purpose of realizing the aforesaid advantages.

35. Regarding Claim 19, as shown above apropos of Claim 1, Herbert anticipates all elements except that Herbert is silent as to the treatment of new incoming calls. Matsuda discloses a radio communication apparatus (Fig. 1) that determines conditions are unsafe for a

driver to receive an incoming call and records the caller's number (i.e., a calling party identification service state) (Fig. 3, steps 3e-3k; column 8, lines 30-41). Matsuda further discloses that such an arrangement provides improved safety when driving and good manners when riding a train (column 2, lines 3-6). It would have been obvious to one skilled in the art at the time of the invention to apply the incoming call treatment taught by Matsuda to the method taught by Herbert for the purpose of realizing the aforesaid advantages.

36. Claims 34 through 36 are essentially similar to Claims 17 through 19 and are rejected on the same grounds.

Response to Arguments

37. Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

38. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

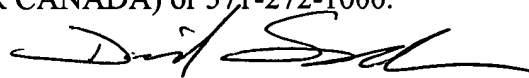
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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Examination of this application has been transferred to the undersigned. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Swerdlow whose telephone number is 571-272-7531. The examiner can normally be reached on Monday through Friday between 7:30 AM and 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh H. Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Daniel Swerdlow
Primary Examiner
Art Unit 2615

ds
12 September 2006